

March 22, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
TW-A325
445 Twelfth St., SW
Washington, DC 20554

Re: *Notice of Ex parte Presentation in WT Docket No. 03-66*

Dear Ms. Dortch:

On March 18, 2004, Harold Feld, Associate Director, Media Access Project (MAP), met with Sheryl Wilkerson, advisor to Chairman Powell. Dustin Goodwin, President, New York City Wireless and Marlon Shafer, President, Odessa Office Equipment, participated by telephone.

Mr. Goodwin described NYC Wireless, a non-commercial entity providing Internet access to urban poor in New York City. NYC Wireless works with other non-profit organizations to provide Internet access using 2.4 GHz hotspots and donated services of local ISPs. Mr. Goodwin described his work with a non-profit called Community Access, which provides free MDU housing to former residents of public institutions transitioning to mainstream society. NYC Wireless has provided Internet access for between 30-40 buildings using 2.4 Ghz spectrum. If NYC Wireless did not provide this service, this community would remain unserved.

Because of crowding in urban environments, the equipment used must be very frequency agile and have space to jump around to avoid congestion. Within buildings, use of 2.4 Ghz spectrum allows multiple apartments to be "lit" with a single piece of equipment. More spectrum proximate to 2.4 Ghz is needed to maintain lifeline service to underserved communities in NYC served by NYC Wireless.

Mr. Shaffer described the system maintained by Odessa Office Supplies. Odessa offers unlicensed service in rural areas outside Odessa, Washington. Because signals must travel extended distances, Odessa does not use 5.4 Ghz spectrum, but relies on a mix of 2.4 GHz and 5.8 GHz. The service makes broadband speeds available in places where it would not otherwise be available. The service also provides connectivity for local fire departments, libraries and other important community institutions at reduced rates or free.

Ms. Wilkerson asked if unlicensed was inherently unsustainable because demand would always outstrip available spectrum. Mr. Shaffer replied that the industry has grown beyond the resources initially allotted to it, but that technology existed to increase efficiency. If the industry has access to additional spectrum, particularly if service rules promote intelligent network design and discourage bad actors or careless actors, then the industry could continue to grow and serve customers who would otherwise have no connectivity.

Mr. Shaffer also complained that a local ITFS licensee rebroadcast the same signal on 16 channels for the sole purpose of having content on air. He questioned why the FCC should encourage such inefficiency when others would gladly use the spectrum for productive purposes.

Mr. Feld suggested that Section 322 and Section 334 of the Communications Act provided sufficient authority for the FCC to prohibit transmission of signals designed to take space on a spectral analyzer or transmitted explicitly to interfere with other systems. Mr. Feld also noted that the Commission must balance the demands of incumbent licensees with the other public interest uses of the spectrum at issue in order to create service rules that best served the public interest.

In accordance with Section 1.1206(b), 47 C.F.R. § 1.1206, this letter is being filed electronically with your office today.

Respectfully submitted

Harold Feld
Associate Director
Media Access Project

cc: Sheryl Wilkerson